

MEMO ENDORSED

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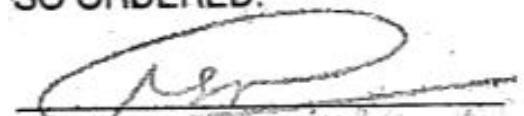
The Honorable Nelson S. Román
United States District Court Judge
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

January 4, 2022

Deft's counsel has informed the Court today that Deft has been designated. Therefore, Counsel's request is DENIED as moot. Clerk of Court is requested to terminate the motion at ECF No. 30.

Dated: White Plains, NY
January 5, 2023

SO ORDERED:



HON. NELSON S. ROMÁN
UNITED STATES DISTRICT JUDGE

Re: United States v. Aaron Finn
21 CR 650 (NSR)

Dear Honorable Román:

I am writing to ask that Mr. Finn's surrender date be postponed until mid-February. I am making this request because the Bureau of Prisons (herein BOP) has not yet designated Mr. Finn to a facility to serve his sentence.

Additionally, I am writing to ask that Your Honor please recommend that the BOP designate Mr. Finn to FCI Danbury, and that the Court specifically recommend that Mr. Finn not be designated to MDC Brooklyn.¹ I am requesting this because during a recent phone call with the Marshalls, I was told that the BOP frequently designates individuals who receive short sentences to MDC in Brooklyn.² Incarceration at MDC is inappropriate for many reasons. First, MDC is considered an "administrative" facility, which means that it is designed to house pretrial defendants and those who are considered "extremely violent, or escape-prone."³ Mr. Finn is not a pretrial defendant, and he is not violent or an escape risk. Instead, Mr. Finn is a former corrections officers, has abided by all the terms of his pretrial release, and has no prior convictions for violence. As such, a designation at MDC is

¹ I ask that this language be included in the Judgement so that the BOP may see the Court's recommendation when it designates Mr. Finn.

² The Marshalls also volunteered that if Mr. Finn were to surrender to the Marshalls before the BOP makes a specific designation then Mr. Finn would be brought to MDC in Brooklyn, which concerns me because, in light of Mr. Finn's prior employment as a corrections officer, I am not confident that MDC would be able to ensure Mr. Finn's safety.

³https://www.bop.gov/about/facilities/federal_prisons.jsp#:~:text=Administrative%20Security,%2C%20or%20escape%2Dprone%20inmates. (Last accessed on January 4, 2022).

wholly inappropriate and would result in an unduly harsh and disproportionate sentence. Second, placement at MDC would be problematic because MDC has a long history of violence and has been plagued by COVID-19 outbreaks, lack of heat and electricity and other difficult and inhumane conditions.⁴ As the Honorable McMahon explained in an unrelated case,

The single thing in the five years that I was chief judge of this court that made me the craziest was my complete and utter inability to do anything meaningful about the conditions at the MCC, especially at the MCC and MDC, two federal correctional facilities located in the city of New York. . . . there is no leadership, there is no ability to get anything done. They lurch from crisis to crisis, from the gun smuggling to Jeffrey Epstein. . . . It is the finding of this Court that the conditions to which she was subjected to [at MCC and MDC] are as disgusting, inhuman as anything I've heard about any Colombian prison, but more so because we're supposed to be better than that.⁵

Because of this, I submit that it is appropriate to recommend that Mr. Finn not be placed at MDC.

I have communicated with AUSA Lindsey Keenan and she does not object to this request.

Respectfully,

//s

Benjamin Gold
Assistant Federal Defender

cc: AUSA Lindsey Keenan
AUSA Charles Salim Jacob

⁴ Brendan Pierson, *Class certified over 2019 winter power outage at Brooklyn jail*, Reuters, May 27, 2021 (available <https://www.reuters.com/legal/litigation/class-certified-over-2019-winter-power-outage-brooklyn-jail-2021-05-26/>) (last accessed January 4, 2022); Noah Goldberg and John Annese, *More problems at fed jail in Brooklyn; Inmates report no lights, water or hot food, few staffers*, NY Daily News, October 10, 2021 (available <https://www.nydailynews.com/new-york/nyc-crime/ny-water-electricity-conditions-mdc-brooklyn-20211010-27q6mnw6jre4llsko6jbww4m74-story.html>) (last accessed January 4, 2022).

⁵ Sentencing Transcript, *United States v. Tiffany Days*, 19-cr-619 (CM).